

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

April 20, 2010

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 09-30806

Conference Calendar  
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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

WILLIAM HOWARD PENN, JR.,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 6:96-CR-60005-1  
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Before SMITH, PRADO, and HAYNES, Circuit Judges.

PER CURIAM:\*

William Howard Penn, Jr., federal prisoner # 09172-035, appeals the district court's denial of his motion to reduce his sentence pursuant to 18 U.S.C. § 3582(c)(2) based on the amendments to the crack cocaine Guideline. He argues that, in light of *United States v. Booker*, 543 U.S. 220 (2005), the district court was authorized to reduce his sentence based on the new advisory guidelines range and after consideration of the 18 U.S.C. § 3553(a) factors. He further

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

contends that his career offender status did not preclude the court from reducing his sentence.

Penn concedes that these issues are foreclosed by this court's precedent, but raises the issues in order to preserve them for further review. *See United States v. Anderson*, 591 F.3d 789, 790-91 (5th Cir. 2009), and *United States v. Dublin*, 572 F.3d 235, 236-39 (5th Cir.), *cert. denied*, 130 S. Ct. 517 (2009).

AFFIRMED.